



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

**Ronald A. Katz**

**Serial No.:** 08/407,064

**Filed:** March 20, 1995

**For:** VIDEOPHONE SYSTEM FOR  
SCRUTINY MONITORING WITH  
COMPUTER CONTROL

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) **Group Art Unit:** 2643  
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) **Examiner:** S. Woo  
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) **Office Action mailed:**  
)  
) **January 4, 2001**  
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**BRIEF OF APPELLANT**

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## **I. REAL PARTY IN INTEREST**

The present application is assigned to Ronald A. Katz Technology Licensing, L.P.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no known related appeals or interferences currently pending.

## **III. STATUS OF CLAIMS**

Claims 26-115 are pending in this application, of which claims 26-33 and 50 are allowed. Claims 34-49 and 51-115 (Appendix) stand rejected and are here on appeal.

Claims 2-25 were prosecuted in a related application and were never presented for prosecution in this case. Claim 1 was cancelled without prejudice.

Five of the claims (34, 40, 46, 77, 103) here on appeal are in an independent form. The remaining claims here on appeal depend therefrom.

## **IV. STATUS OF AMENDMENTS**

No amendment was filed subsequent to the Final Rejection.

## **V. SUMMARY OF INVENTION**

One aspect of the invention is a telephonic surveillance system using television camera structures that are variously located to provide dynamic video signals and showing remote scenes for surveillance. Using dial-up public

telephone facilities, the dynamic video signals for different scenes are received selectively at a central station, the telephonic communication originating either from the central station (outgoing) or from a remote location (incoming).

In a first group of the claims (34-39, 46-47, 49, 52, 54-78, 80-89, 93-104, 106-110, and 114-115 – Final Rejection, page 2, paragraph 2, [hereafter “Rejection 2”]) the dial-up telephonic communication originates at the central station (outgoing calls).

In another group of claims (40-45 – Final Rejection, page 4, para. 3, [hereafter “Rejection 3”]) the dial-up telephone communication originates at a remote scrutiny location (incoming calls).

The remaining claims (48, 51, 53, 79, 105, 111-113 – Final Rejection page 5, paras. 4 and 5, [hereafter “Rejections 4 and 5”]) depend from the first group of claims (Rejection 2).

In the first group of claims (Rejection 2), cameras for desired locations are selected in accordance with a program and are telephonically dialed-up (outgoing calls) from the central station. Accordingly, under the control of stored information, dynamic scenes from different remote locations are displayed in sequence. Specifically, using the stored information, a telephonic interface apparatus at the central station dials-up remote camera structures in the desired sequence to obtain scene displays. Thus, a security person from a central location

can monitor dynamic displays of remote scenes in a predetermined sequence without manual activity.

In some embodiments, the sequential dial-up operations to access remote locations may be interrupted for a priority display, as in the event of an emergency.

Claim 34 (representative of “outgoing” call embodiments) may be read with reference to the attached drawings as set out below. Reference designations in the drawings appear in brackets to indicate exemplary structures, see Figures 1-6.

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34. A system for monitoring a plurality of scrutiny locations (L1-Ln, Figs. 1 & 3) from a central station (CU, Figs. 1 & 3) using dial-up telephone facilities (TS, Figs. 1 & 3) comprising:

television camera structures (C1-C6, Figs. 2 and 26, Fig. 3) located at said plurality of scrutiny locations for providing representative dynamic image television signals representative of scenes (see Fig. 4) from said plurality of scrutiny locations;

at least one television display structure (V1-Vn, Figs. 1 & 3 and 114, Fig. 6) located at said central station;

television interface apparatus (12, Fig. 1; 44, Fig. 3 and 42, Fig. 6) for interconnecting said television camera structures at said plurality of scrutiny

locations to said at least one television display structure at said central location; and

a control unit (12, Fig. 1 and 44, Figs. 3 & 6) located at said central station including a computer and a memory (48, Figs. 3 & 6) for storing identification designation data and graphic display data for said plurality of scrutiny locations, said control unit programmed to sequentially and automatically actuate, under control of said computer, said telephonic interface apparatus to establish television communication between said central station and said plurality of scrutiny locations to provide a sequence of remote location displays at said central station, for programmed internals, showing a scene and graphic display data of the plurality of scrutiny locations, said control unit further including interrupt structure (104, Fig. 6) for receiving an interrupt signal manifesting a predetermined circumstance to interrupt said sequence of remote location displays controlled by the computer and to provide an alternative display of a scene from another of said plurality of scrutiny locations along with graphic display data.

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In the next group of claims (claims 40-45 – Rejection 3) telephonic communication originates at the monitored security locations (incoming calls). For example, a television camera structure might be located at a bank site where

different types of alert situations may occur, e.g., “routine” or “emergency” (see Application Fig. 4.) On the occurrence of an alert, an autodialer at the bank dials-up the central station using a select telephone number to establish communication. The dial-up operation automatically causes the public telephone system to provide “D” channel type signals to the central station. These signals may indicate the called telephone number, and in accordance with the invention indicate the alert situations, e.g., “routine” or “emergency.” Note that “D” channel type signals include both DNIS signals (indicating the called number) and ANI signals (indicating the calling number, see specification, page 10, line 14).

In operation, the central station uses the “D” channel type signals to access information to indicate the nature of an alert situation, e.g., “routine” or “emergency.” The indication of the alert situation is displayed along with the scene. Thus, by the selective assignment of incoming dial-up numbers, alert situation indications can be provided simply and without further complicating the video processing. In a related fashion, “D” channel ANI signals, automatically provided by the public telephone system, may manifest scrutiny locations.

Claim 40, exemplifying incoming calls may be read with reference to the Figs. 1, 2 & 3 as follows. Parenthetical reference designations indicate exemplary structures.

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40. A system for observing a plurality of monitored locations (L1-Ln, Figs. 1 & 3) from a central station (CU, Figs. 1 & 3) utilizing dial-up telephone facilities (TS, Figs. 1 & 3) comprising:

at least one television camera structure (C1-C6, Fig. 2; 26, Fig. 3) located at each of said plurality of monitored locations for providing scene representative dynamic image television signals of location displays;

a plurality of switch structures (S1-S7, Fig. 2 and 34, Fig. 3) at each of said plurality of monitored locations for providing alert signals indicating various alert situations;

at least one television display structure (V1-Vn, Figs. 1 & 3 and 114, Fig. 6) at said central station for providing a scene display of said plurality of monitored locations represented by said scene representative dynamic image television signals;

telephonic interface apparatus (28, Fig. 3) for interconnecting said television camera structures at said monitored locations and said central station, said telephonic interface apparatus including at least one autodialer apparatus (30, Fig. 3) at said monitored locations for dial-up connection originated from a monitored location, said telephonic apparatus further including "D" channel type apparatus, (28 and TS, Fig. 3) for providing "D" channel type signals to manifest said various alert situations; and

a control computer (44, Figs. 3 & 6) activated by said “D” channel type signals and including memory structure (48, Figs. 3 & 6) addressable to supply location graphic data, including an alert situation indication for actuating said at least one television display structure to display the graphic data including an alert situation indication along with said scene representative dynamic image television signals of said location displays.

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## **VI. ISSUES**

- A. Whether the claims 34-39, 46-47, 49, 52, 54-78, 80-89, 93-104, 106-110 and 114-115 (Rejection 2) stand improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over the publication entitled “Vision by telephone” (“Vision”) in combination with U.S. Patent 5,264,929 to Yamaguchi (“Yamaguchi”) and further in combination with U.S. Patent 5,202,759 to Laycock (“Laycock”)?
- B. Whether claims 40-45 (“Rejection 3”) stand improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over “Vision” in combination with “Laycock” as well as U.S. Patent 5,109,399 to Thompson (“Thompson”)?
- C. Whether claims 48, 51, 90-92, 111-113, (“Rejection 4”) stand improperly rejected under 35 U.S.C. 103(a) as being unpatentable

over “Vision,” “Yamaguchi,” “Laycock” and “Thompson” in combination?

- D. Whether claims 53, 79, 105 (“Rejection 5”) stand improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over the publication “Vision” in combination with “Yamaguchi,” “Laycock” and U.S. Patent 4,843,377, to Fuller et al (“Fuller”)?
- E. Can a rejection under 35 U.S.C. § 103(a) be proper when based upon three or more references, where their combination is without reason, suggestion or motivation?
- F. Can a rejection under 35 U.S.C. § 103(a) be proper when based on a combination of three or more references that collectively fail to disclose significant aspects of a claimed invention?
- G. What is the scope and content of the applied prior art, i.e., “Vision,” “Yamaguchi” “Laycock,” “Thompson” and “Fuller”?
- H. What are the differences between the invention as defined by the claims and the applied prior art?
- I. In view of the differences between the invention as claimed and the applied prior art would the invention defined by each of the claims have been unobvious to a person of ordinary skill in the art?

## **VII. GROUPING OF CLAIMS**

“Rejection 2,” involving “outgoing” call claims and “Rejection 3,” involving “incoming” call claims are treated separately. “Rejections 4 and 5” are directed solely to dependent claims and involve both “incoming” and “outgoing” calls. The rejected claims are treated together.

## **VIII. ARGUMENT**

### **A. Summary of Argument**

The Appeal challenges two of the four factual inquiries that must be made under current authority to determine “obviousness”; specifically, the Final Rejection is challenged with regard to: (1) the scope and content of the prior art and (2) the differences between the claimed invention and the prior art.

Merely finding elements in separate prior patents that are similar to those claimed does not provide a basis for rejecting claims. In that context, combining reference teachings requires a reason, a suggestion or a motivation from the art or elsewhere. Here, the Final Rejection is based on asserted combinations of prior art that are unsupported by reason, suggestion or motivation. Furthermore, the combinations are deficient in meeting the claim limitations. Rarely can “skill in the art” fill true gaps in the prior art.

## **B. The Prior Art**

“Vision” describes a telephonic system for communicating still pictures from a remote site to a central station. Communication may originate from either the central station (outgoing, “surveillance mode,” “Vision,” 2<sup>nd</sup> page, col. 1, para. 2) or from a remote site (incoming, “alarm mode” 2<sup>nd</sup> page, col. 1, para. 3). However in the outgoing “surveillance mode” an operator manually dials or keys a two-digit memory number to access a remote station (2<sup>nd</sup> page, col. 1, 1<sup>st</sup> full para.). The limitation “to provide a sequence of remote location displays at the control station” is not described

In the “alarm mode” of “Vision,” a remote station autodialer calls the central station (2<sup>nd</sup> page, col. 1, para. 3) and the inbound telephone connection is held while pictures are sent in sequence from cameras located at the calling site (2<sup>nd</sup> page, col. 1, para. 3.). Pictures are not from multiple remote locations. A 17-character legend on each picture provides identification (2<sup>nd</sup> page, col. 2); however, there is no suggestion of indicating the nature of the alert, as by “D” channel.

It is stressed that although “Vision” teaches sequencing of displays, the sequence of displays is during the “incoming call” alarm mode and involves cameras from a single calling site transmitted through an established dial-up connection (see 2<sup>nd</sup> page, col.1, last para). “Vision” does not disclose sequenced

automatic dialing to remote sites, outgoing calls to a series of scrutiny locations, or dynamic image displays.

“Yamaguchi” discloses a video switch, for location at a scrutiny site, to select sequentially, video signals of a group, for display in a predetermined order (“Yamaguchi,” col. 2, ln. 54). Alarm signals are associated with the video signals. That is, alarm signals are provided in association with specific video cameras. In the event of an alarm signal, the current sequence of displays is interrupted and the video signal from the camera associated with the alarm is displayed (col. 10, ln. 20).

The “Yamaguchi” system is void of telephonic communication teachings, and the described system is useful only at scrutiny sites. Otherwise multiple telephone lines would be required (one for each scrutiny site) to be kept open to the central site. That is, placing the “Yamaguchi” switch at a central station would be entirely impracticable because it would require maintaining some seventeen open telephone lines between the central station and the remote site to accommodate the alarm and video terminals (Fig. 1, terminals 41-48 and 11-19). Thus, any combination placing the “Yamaguchi” switch at a central station is not only unobvious and not suggested, it would be completely impractical.

“Yamaguchi” video signals are processed with character data to be displayed, for example, camera number, date, and so on (col. 6, ln. 23). However,

there is no suggestion of indicating alert situations particularly by the simple expedient use of the “D” channel.

“Laycock” is directed to a surveillance system using coded apparatus and video compression techniques to transmit pictures of surveyed stations through an interface unit to a control station via a telephone network. Communication between the surveyed stations and the control station may be continuous, or dialed up (incoming) as a result of a detector sensing an alarm (col. 2, ln. 46-56).

In the “outgoing mode,” an operator at the control station may dial up the interface unit for selective camera views (col. 2, ln. 54). Sequentially programmed, individually dialed, multiple-location displays are not disclosed. Information, including the “type of alarm” is processed and incorporated in the display data by video codec techniques, (col. 4, ln. 17). There is no description of a simple “D” channel communication.

“Thompson” is a telephonic locating system. For example, in a “911” emergency reporting situation, while in voice contact with a caller, the person receiving an emergency call sees a map display showing the area where the call originated. Essentially, the calling number is received and used to address a database for providing the pertinent map to be displayed. Automatic Number Identification (ANI) signals (col. 1, ln 43, a form of “D” channel type signals) from the network are mentioned as a method of obtaining the calling number (col. 3, ln.

23). “Thomson” is unrelated to the transmission of television signals and the complications of adding information to such transmissions, as the type of alert situation. “D” channel type signals have been proposed for various uses, and “Thompson” fails to suggest or describe using such signals in a television context to simplify the transmission of data. Rather, “Thomson” merely uses “D” channel ANI signals as an alternative to receiving a telephone number (col. 3, ln. 22) to identify map locations.

“Fuller” involves a home-arrest system and is urged on the basis of a disclosure of dial-up operation in a random manner (col. 12, ln. 15). The mere alternative of predetermined or random calling patterns in a confinement system fails to describe expansion to the claimed invention.

### **C. The Claim Arguments**

#### **1. Preliminary Comment**

The law applicable for the resolution of this Appeal is well established and was recently stated comprehensively in *Ruiz v Chance Co.* (CAFC 12/6/00) 57 USPQ2d 1161. Essentially it involves determining the scope of the applied references, determining the propriety of combining elements from those references, and determining the differences between such defined scope and the claimed invention.



2. Rejection 2 should be reversed

a. Errors in the Rejection

The rejection failed to recognize that outgoing calls in “Vision” are limited to manual dial-up operation, “Vision,” (2nd page, col. 1, para. 1).

The rejection failed to recognize that in “Vision,” sequencing occurs only in the “alarm mode” (incoming calls) and produces only sequences of pictures from one site based on one dial-up call. (2<sup>nd</sup> page, col.1, para. 3)

The rejection failed to recognize that “Yamaguchi” is merely a switch that at best is practically useful in combination with “Vision” only at each remote site and would be functional only during the “alarm mode” (incoming calls).

The rejection failed to recognize that the teachings of “Yamaguchi” are limited to switching signals from “connected” “video cameras” (“Yamaguchi,” col.5, ln.30 and col. 8, ln. 37), as at one remote site, not signals from dial-up connections from multiple locations.

The rejection failed to recognize that outgoing calls in “Laycock” are limited to manual dial-up operations (“Laycock,” col. 2, ln. 54).

b. The subject matter is unobvious

The claims of “Rejection 2” (34-39, 46-47, 49, 52, 54-78, 80-89, 93-104, 104-110, and 114-115 stand rejected on the basis of an asserted combination of

references, i.e., “Vision,” “Yamaguchi” and “Laycock.” Note that the claims involve “outgoing calls,” i.e., calls originating from the central station to the remote stations.

Considering claim 34, for example, in the context of outgoing calls, key limitations are expressed: “telephone interface structure ... to provide a sequence of ... remote location displays ... of scrutiny locations” and “interrupt structure ... to interrupt ... to provide an alternate display ... of scrutiny locations.” Distinctly, the claims specify a desirable system, operating independently to monitor multiple locations with dynamic displays transmitted through dial-up telephone connections.

Turning to the references, “Vision” does not describe automated dialing for outgoing calls, rather, in the outgoing “surveillance mode” (“Vision,” 2<sup>nd</sup> page, col. 1, 1<sup>st</sup> para.) calls are placed manually. Pictures may be transmitted in a sequence; however, they are from a single site, (2<sup>nd</sup> page, col. 1, para. 3). With a single-site sequence in progress, apparently, interruption is possible only by manual action (2<sup>nd</sup> page, col. 1, 1<sup>st</sup> para).

“Yamaguchi” discloses a video switching system independent of telephonic surveillance. That is, “Yamaguchi” involves making serial connections from a plurality of video signal sources (“Yamaguchi,” col. 2, ln. 53) and a plurality of alarm signals (col. 7, ln. 52) to single lines. The “Yamaguchi” switch is not usable

in an outgoing system. It is practical only at a remote station to “sequence” connected signals, and from that location alone.

To use “Yamaguchi” at a central station would necessitate multiple open telephone lines delivering multiple video signals for selection—a completely impractical arrangement. Accordingly, “Yamaguchi” does not describe, suggest or involve outgoing telephone operations from a central station: “to establish television communication between said central station and said plurality of scrutiny locations.” Thus, no “interface structure” as claimed is disclosed or suggested.

“Laycock,” as “Vision,” involves manual dialing for outgoing calls (“Laycock,” column 2, line 54). Consequently, again no “interface structure” exists to provide an outgoing dialed-up “sequence.” With no outgoing dial-up sequence existing in the applied art, claims of the Rejection 2 are patentably distinct.

Also, without the outgoing sequence of calls, there can be no suggestion that such a sequence is interrupted.

A further question involves the propriety of the reference combination. As stated in the Ruiz case (cited above) “the relevant inquiry for determining the scope and content of the prior art is whether there is a reason, suggestion or motivation in the prior art or elsewhere that would have led one of ordinary skill in

the art to combine the references” (In re Rouffet, 149 F3d 1350, 1359; 47 USPQ2d 1453, 1459 (Fed Cir 1998)).

Prior art considerations of three or more references invariably raise the question of propriety. In such combinations, incompatibility of disclosed structures, foreign functions and objectives or departures from the claimed structures, as gaps in the art should reject the combination.

Summarizing, claim 34 specifies structure (“telephonic interface apparatus” and “interrupt structure”) that is neither disclosed nor suggested in the applied references. The distinct structure results in operating philosophies and functions that are totally foreign to any prior art possibilities. Specifically, rather than manual switching (perhaps based on a hunch) a security person receives a dynamic display sequence that covers multiple sites as a result of predetermined dial-up operations. Furthermore, there is the limitation that in the event of an “alert” situation, an “interrupt signal” directs the display to a site of concern.

The claim limitations clearly define an “unobvious” system that is patentable. The authority is well established. “Rarely, however, will the skill in the art component operate to supply missing knowledge or prior art to reach an obviousness judgment.” Al-Site Corp. v. VSI International (CAFC 3/30/99) 50 USPQ2d 1161, 1171. From the same case, “[s]kill in the art does not act as a bridge over gaps in substantive presentation of an obviousness case.”

In view of the “missing” structural limitations in the applied art and the distinguishing limitations, the rejection of claim 34 should be reversed.

The claims 35-39 depend from the claim 34. Generally, reliance for supporting these claims as patentable is on the limitations of the independent claim 34.

Considering the next independent claim 46 of Rejection 2, it recites the “telephonic interface apparatus” as considered above, using similar language to specify outgoing sequential dial-up operations to obtain display data from the remote locations. Accordingly, as explained above, the claim defines limitations to specify patentable subject matter and the rejection should be reversed.

Note that claim 46 also positively recites “a memory unit for storing identification designation data, time sequence data and remote location data on ... remote locations.” Further distinction is thus added supporting reversal of the claim rejection.

The claims 47, 49, 52 and 54-76 depend from claim 46 and recite additional limitations, however, except for the claim limitations noted below, support for these claims is based on the limitations of claim 46.

Claim 49: function of storing billing time.

Claim 56: function of variable observation times.

Claims 63 and 64: specify motion detectors.

Claims 75 and 76: specify detecting an inoperative camera.

The next independent claim 77 of the Rejection 2 also recites outgoing call dial-up operations to accomplish sequential displays from the remote locations, specifically: “telephonic interface apparatus for interconnecting ... to the remote locations sequentially ... in accordance with programmed operations.” As treated above, with respect to claim 34, the distinction brings patentability to the claimed combination.

Claim 77 also specifies: “a memory unit for storing programmed operations for sequential remote location communication including identification designation data.” The rejection of claim 77 should be reversed.

The dependent claims 78, 80-89 and 93-102, which depend from claim 77, recite additional limitations, however, except for the claim limitations noted below, support for these claims is based on the limitations of claim 77.

Claim 80 specifies programmed intervals of display.

Claim 81 specifies variable observation time.

The next independent claim, 103, of Rejection 2 also recites the outgoing telephonic interface apparatus to accomplish a dial-up sequence as treated in detail above with reference to claim 34. Accordingly, it is patentably distinct. The claim also recites programmed operation and a memory unit as further limitations. The rejection of claim 103 should be reversed.

The claims 104, 106-110 114 and 115 depend from the claim 103 and recite additional limitations. However, support for these claims is based on the distinctions of claim 103.

3. Rejection 3 should be reversed

a. Errors in the Rejection

The rejection failed to recognize that in “Vision,” displays of graphic data involve further complicating video and data processing operations performed at each remote site (“Vision,” 2<sup>nd</sup> page, col. 2, Figure 2) to provide a 17-character legend.

The rejection failed to recognize that the “Laycock” displays of graphic data also involve further complicating coding operations with video codex structures, (“Laycock,” col. 4, ln. 17).

The rejection failed to recognize that “Thompson” operates in a manner foreign to either “Vision” or “Laycock,” involving manual emergency calls where a caller is on the line with a security person during communication.

b. The subject matter is unobvious

Rejection 3 (claims 40-45) was on the basis of an asserted combination: “Vision,” “Laycock,” and “Thompson.” Here the claims are directed to “incoming calls,” i.e., calls originating at the monitored locations. A key distinction involves

the simple “D” channel type signal operation functioning in conjunction with the control computer to “display ... an alert situation indication.”

“Vision” involves incoming calls, however, the only suggestion of any information display is a reference to a “17 character identification legend” (“Vision,” 2<sup>nd</sup> page, col. 2) which display apparently originates in the “ident gen” (Fig 2) and is processed by the “Micro processor” to be incorporated in the picture.

“Laycock” also involves incoming calls, however, again the operation must be somewhat assumed from the drawings. Specifically, Fig. 2 shows a “character code” box that apparently provides identification of the surveyed station and the “type of location” (“Laycock,” col. 3, ln. 16).

Regarding both “Vision” and “Laycock” it is important to recognize the further complicating operations that compound the transmission of video. Added graphic data must be processed at each remote scrutiny location to be incorporated in the video signals for display. Although neither of the references explains either the processing or the complications of such processing, such further complications are well recognized to require expensive apparatus at each remote station.

The third reference in the asserted combination, “Thompson” involves a telephonic locating system. The Thompson system is “for receiving emergency telephone calls” (“Thompson,” col. 1, ln. 64) from persons, usually dialing numerals 9-1-1. Essentially, the system purports to display a map related to a



caller's telephone number along with other identification. For example, in a "911" emergency situation, in addition to having voice contact with the caller, the person receiving the emergency call sees a map display showing the area where the call originated along with identification data.

Essentially, the telephone calling number is received and used to address a data base for the pertinent map to be displayed (col. 4, ln. 33) along with identification data, e.g., "name and address associated with the telephone number" (col. 4, ln. 66). Automatic Number Identification (ANI) signals (a form of "D" channel type signals) are mentioned as an alternative method of obtaining the calling number (col. 3, ln. 23).

Turning to the claims (40-45), the "D" channel limitation is stressed in the structural elements of the claims. Consider the language of claim 40: "'D' channel type apparatus for providing 'D' channel type signals to manifest ... various alert situations" and "a control computer activated by said 'D' channel type signals ... to display ... an alert situation indication."

The limitation distinguishes the applied prior art, both as individual references and in the asserted combination. "Vision" and "Laycock" add considerable complexity, at each remote station, to provide video signals incorporating graphic information. To avoid such complexity, the present invention utilizes "D" channel type signals to manifest the "alert situation

indication.” The simple elegance specified by claims 40-45 is described in the (specification, see page 10, ln. 11-27; page 18, ln. 29 through page 19 line 20). The operation simply involves assigning select telephone numbers for incoming calls. For example, the called telephone number (manifest by called-number DNIS signals) indicates the nature of alert situations.

The claimed use of “D” channel type signals is totally foreign to that of “Thompson.” While “Thompson” involves 9-1-1 calls from persons, claim 40 involves automated operations prompted by various “alert situations.” In “Thompson,” the identification data and the map supplement a conversation with the caller, for example, a caller may wish “to direct emergency services to a telephone location other than the telephone called from” (“Thompson,” col. 5, ln. 58). Of course in most cases, the caller would verbally express an indication of the alert situation, e.g., robbery, fire, etc.

Additionally, the appealed claims 40-44 involve different functions and structure. First, in accordance with claim 40, an auto dialer attains a dial-up connection from a monitored location. Distinct from the identification information provided by “Thompson,” the system of claim 40 displays “graphic data including an alert situation indication.” Basically different functions and structures are involved with the consequence of significant distinction as well as incompatibility of “Thompson” with the references “Laycock” and “Vision.” Not only is the

asserted combination distinguished by the system elements of Claim 40, the asserted combination is improper under the Ruiz case. There is neither reason, suggestion nor motivation in the prior art or elsewhere that would lead one of ordinary skill to equate a map display selection for a conversation reporting an alert situation to indicating an alert situation related to an emergency television display scene. The rejection of claim 40 should be reversed.

The claims 41-45, depending from the claim 40, recite additional limitations. However, herein, support for these claims is based on the limitations of the independent claim.

4. Rejections 4 and 5 should be reversed.

a. Errors in the Rejection

The rejections failed to recognize the failures of Rejections 2 and 3.

The rejections failed to recognize the distinct and separate structures, philosophies and functions of “Vision,” “Yamaguchi,” “Laycock,” “Thompson,” and “Fuller.”

b. The Subject Matter is Unobvious

The Rejections 4 and 5 each are based on asserted combinations involving four separate references. Specifically, Rejection 4 (claims 48, 51, 90-92 and 111-113) urges: “Vision,” “Yamaguchi,” “Laycock,” and “Thompson,” while Rejection 5 (claims 53, 79, and 105) urges “Vision,” “Yamaguchi,” “Laycock,”

and “Fuller.” These rejections are directed solely to dependent claims based on independent claims of the Rejection 2, as treated above. Accordingly, the limitations of those claims as treated above apply to these claims rendering them distinct.

The claims of Rejection 4 (48, 51, 90-92, and 111-113) add the limitation of “D” channel type signal operations” as explained above, to claims which specify the “telephone surveillance” structure as treated in Rejection 3. Consequently, these claims are distinguished by both the limitations treated in Rejections 2 and 3. Again, the comment from the Ruiz case is particularly pertinent here: “the notion ... that combination claims can be declared invalid merely upon finding similar elements in separate prior patents would necessarily destroy virtually all patents and cannot be the law.” Rejection 4 should be reversed.

The law regarding combinations of references is similarly applicable to Rejection 5 (claims 53, 79 and 105). Here, the distinction of “random” dial-up selection is added as a further limitation to claims of the Rejection 3. To meet the distinction, “Fuller” is cited for its disclosure of “random” dial-up operation in a house arrest system (col. 12, ln. 15). The difference in field and the specified claim elements clearly distinguish. Rejection 5 should be reversed.

## IX. CONCLUSION

The rejections of the claimed inventions should be reversed on the basis of the differences from the prior art as treated above, and the substance of those differences. Reversal of the Final Rejection is respectfully requested.

Respectfully submitted,

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